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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/070,266	07/19/2002	Natalie Bryant	FREEH2.002APC	2913
20995 7590 08/16/2007 KNOBBE MARTENS OLSON & BEAR LLP 2040 MAIN STREET FOURTEENTH FLOOR IRVINE, CA 92614				
			EXAMINER COBURN, CORBETT B	
			ART UNIT 3714	PAPER NUMBER
			NOTIFICATION DATE 08/16/2007	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

jcartee@kmob.com
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Office Action Summary

Application No.

10/070,266

Applicant(s)

BRYANT ET AL.

Examiner

Corbett B. Coburn

Art Unit

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 July 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 and 29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 and 29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>1/18/7, 1/26/7</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of claims 1-11 & 29 in the reply filed on 31 July 2007 is acknowledged.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-11 & 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stone (US Patent Number 5,947,821) in view of Olsen (US Patent Number 6,110,043).

Claims 1, 6: Stone teaches a gaming machine that includes a display (44) for displaying combinations of symbols. There is a controller (110) for controlling operation of the machine. The controller includes a processor for selecting the outcome of the game (i.e., a poker hand) and displaying it on the screen. The gaming machine is adapted to play a base game (i.e., poker) in which the player places a base bet to purchase at least one outcome and if the outcome is a winning outcome, the machine awards a prize that is determined by the payable. There is a selector (51) operable on payment of an additional bet prior to the commencement of the base game. When the selector is operated (i.e., when the additional wager(s) are made), the controller adds at least one additional feature to the base game – participation in a progressive jackpot game. The game is not,

however triggered in the base game where the trigger event is independent of the outcome in the base game. Olsen teaches a progressive game that is triggered by an event independent of the outcome of the base game – the progressive pool reaching a randomly determined trigger amount. (Abstract) Olsen discloses that this adds excitement to the game. (Col 2, 50-51) It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified Stone in view of Olsen to have the feature game triggered in the base game where the trigger event is independent of the outcome in the base game in order to add excitement to the game.

Claim 2: Stone teaches the invention substantially as claimed, but fails to explicitly teach that the additional wagers are multiples of the base bet. Clearly the wager amount is a matter of design choice. A game designer can choose any value desired to be the wager amount.

Claim 3: Stone teaches taking a pre-game wager for a wild card (Abstract), for participation in a progressive jackpot (a feature game, Fig 1), and for an increased payout (multiplier, Col 3, 39-47). (Stone also teaches a wager for a second wildcard, but this is disclosed as being made after the game starts.) While Stone does not teach that the wage is a multiple of the base bet, this is a matter of design choice.

Claim 4: Stone teaches multiple pre-game wagers (and features), but only illustrates a single selector. Clearly, if a player is offered multiple wagers, multiple selectors are required. Since the bets are interchangeable, any coin can be thought of as the base bet – including the last coin to be bet.

Claim 5: The additional at least one other bet staked provides eligibility to a benefit

provided by that feature, there being no guarantee that the feature will award a prize merely by having staked the at least one other bet. There is no guarantee that the player will trigger the award of the progressive jackpot.

Claim 7: The selector enables a player to select a range of additional features to enable the player to tailor the game to the player's requirements. Stone teaches at least two additional features (progressive jackpot & multiplier).

Claim 8: Stone teaches certain features that are comprise a series of game events purchased by the additional bet (award of the progressive jackpot). Other features (i.e. the multiplier) may comprise a series of game events that require the staking of additional bets. If the player chooses the multiplier, the player continues with the base game. The base game may allow the player to purchase a second wild card. (Fig 1A)

Claims 10, 11: Stone discloses selectors in the form of keypads & touch screens. (Col 5, 17-22)

Claim 29: Stone teaches that the selector is operated to add a wildcard, which is a player-favorable variation in the set of symbols from which the controller selects symbols for display. It also may add eligibility for a progressive jackpot which is a feature game in the event of a feature game trigger occurring in the base game.

4. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Stone & Olsen as applied to claim 1 further in view of Itkis (US Patent Number 4,856,787).

Claim 9: Stone & Olsen teach the invention substantially as claimed, but fail to teach allowing the player to select from a plurality of base games. It is well known that there are innumerable variations in poker. Itkis teaches allowing a player to select from

various base game. This allows the player to choose the game he wishes to play. It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified Stone & Olsen in view of Olsen to allow the player to select from a plurality of base games in order to allow the player to choose the game he wishes to play.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Giobbi et al. (US Patent Number 6,203,428) teaches selecting from a plurality of base games. Dabrowski et al. (US Patent Number 5,356,140) teaches a variety of poker games.

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Corbett B. Coburn whose telephone number is (571) 272-4447. The examiner can normally be reached on 8-5:30, Monday-Friday, alternate Fridays off.

Art Unit: 3714

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pezzuto can be reached on (571) 272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Corbett B. Coburn/
Primary Examiner
Art Unit 3714